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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,180	11/17/2003	Marshall L. Weingarden	A-03.71	3364

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EXAMINER

GEHMAN, BRYON P

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/715,180

Applicant(s)

WEINGARDEN, MARSHALL L.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/17/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 6-7, 10-12, 14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 3, line 2, "essentially solid" is indefinite, as it is unclear whether applicant means "necessarily solid" or "substantially solid". See claims 6, 10, 11, 14 and 17 for other instances where "essentially" is indefinitely employed.

In claim 7, the claim does not end with a period.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-3, 5, 7-10, 13-14, 16 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bauer (5,697,496). Disclosed is a hub post (60) comprising a base having a basal surface (undersurfaces of 61 and 63), the base having a longitudinal (axial) extent, a layer of adhesive on the basal surface (see column 6, line 65 through column 7, line 11), a post (defined by fingers 62) projecting from the base, the base and

post being integral and constructed from stiffly resilient synthetic polymeric material (high impact polystyrene) having resilient characteristics.

As to claims 2-3 and 13-14, the base and post are unitary and solid in construction.

As to claims 5 and 16, the durometer may be inherently met. 

As to claim 7-10, the basal surface is spaced from the gripping surface and the further limitations relative to area and a base flange are met.

As to claims 18 and 20, the post is generally cylindrical.

As to claims 19 and 21, the post may also be characterized as polyhedral.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-10, 13-16 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer in view of Attar et al. (5,975,291). Bauer has been explained above. To any degree it may be shown that the polystyrene hub post of Bauer does not meet all the functional recitation of the claims, Attar et al. disclose a hub post constructed from (poly)urethane (see column 3, lines 18-57). To substitute the hub post material of Attar et al. for the hub post material of Bauer et al. would have been obvious

in order to allow some flexing but work well for a CD hub post, as suggested by Attar et al..

As to claims 2-3 and 13-14, the base and post of Bauer are unitary and solid in construction.

As to claims 5 and 16, the durometer should be inherently met by the (poly)urethane of Attar et al..

As to claim 7-10, the basal surface of Bauer is spaced from the gripping surface and the further limitations relative to area and a base flange are met.

As to claims 18 and 20, the post of Bauer is generally cylindrical.

As to claims 19 and 21, the post of Bauer may also be characterized as polyhedral.

7. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 9 above, and further in view of Joyce et al. (5,417,324). Joyce et al. disclose providing a hub post of transparent polystyrene. To modify the employed prior art further by employing transparent (poly)urethane would have been obvious in view of Joyce et al. in order to allow viewing of the disk of the hub post without visual obstruction by the hub post.

8. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 9 above, and further in view of Condorodis (5,735,396). Condorodis discloses a canted hub post (see Figures 5 and 6A). To modify the

employed prior art further by canting the hub post in the manner suggested by Condorodis would have been obvious in order to facilitate application of a disk to the hub post, as suggested by Condorodis.

9. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 9 and 1 above, and further in view of Cerda-Vilaplana et al. (6,276,524). Cerda-Vilaplana et al. discloses a polyhedral hub post. To modify the employed prior art further by employing a polyhedral shape for the hub post would have been obvious, as such a shape was well known in the hub post field.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are adhesively attached hub posts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (703) 605-1174. The examiner can normally be reached on Monday through Wednesday from 5:30am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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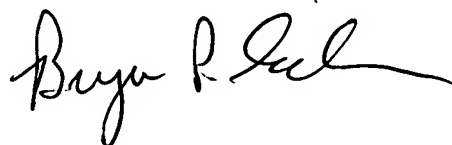
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bryon P. Gehman  
Primary Examiner  
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BPG